United Nations A/56/190

General Assembly

Distr.: General
17 July 2001

Original: English

Fifty-sixth session
Item 131 (b) of the provisional agenda*
Human rights questions: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Human rights and terrorism

Report of the Secretary-General**

1. In its resolution 54/164 of 17 December 1999, recalling its previous resolutions on human rights and terrorism and those of the Commission on Human Rights and the Subcommission on the Promotion and Protection of Human Rights on the same subject, the General Assembly reiterated its unequivocal condemnation of the acts, methods and practices of terrorism; and called upon States to take all necessary and effective measures in accordance with relevant provisions of international law, including international human rights standards, to prevent, combat and eliminate terrorism in all its forms and manifestations, wherever and by whomever committed.

2. In the same resolution, the General Assembly requested the Secretary-General to continue to seek the views of Member States on the implications of terrorism, in all its forms and manifestations, for the full enjoyment of all human rights and fundamental freedoms, with a view to incorporating them into his report to the Assembly at its fifty-sixth session.

3. The present report, submitted pursuant to that request, summarizes the replies received from the Governments that responded to the note verbale by the Secretary-General dated 4 September 2000, namely, Azerbaijan, Egypt, Kuwait, Qatar and Turkey. Also covered are replies to the note verbale dated 16 August 1999 that were not included in the previous report (A/54/439), namely, those received from Cuba, India and the United Arab Emirates.

Azerbaijan

4. The Government of Azerbaijan provided information regarding terrorist activities against it, which had also appeared in its letters dated 9 April 1997 and 7 January 1999 to the Commission on Human Rights (E/CN.4/1997/138 and E/CN.4/1999/117) and its letter dated 27 July 1999 to the Subcommission on the Promotion and Protection of Human Rights (E/CN.4/Sub.2/1999/39). It recognized that international terrorism posed an extremely serious threat to the universally recognized concept of human rights and fundamental freedoms in addition to the threat to the security and territorial integrity of States. The Government made it clear that the majority of terrorist acts were in fact organized and their consequences exacerbated by the involvement of other States. The Government of Azerbaijan welcomed the work of the Special Rapporteur on human rights and terrorism of the Subcommission on the Promotion and Protection of Human Rights and expressed its hope that

* A/56/150.

** The present report is being submitted on 17 July 2001 so as to include as much updated information as possible.

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the Special Rapporteur's subsequent reports would give more attention to the phenomenon of so-called "ethnic terrorism" and the role of diasporas in the support of international terrorism as a means of undermining the territorial integrity of States. Azerbaijan said it was convinced of the need to strengthen international cooperation to prevent, combat and eliminate terrorism and expressed the belief that the development of an overarching and comprehensive international legal instrument to that end was an important priority. It expressed its readiness to play an active role in drafting and discussing an appropriate draft international convention.

5. Azerbaijan also provided information on different aspects of its national anti-terrorist legislation. An Anti-Terrorist Act had been adopted on 18 June 1999, setting out the legal and organizational underpinnings of anti-terrorist measures, coordinating the work of public bodies engaged in the fight against terrorism, and describing the rights and duties of those bodies and of citizens. The Azerbaijani Criminal Code, which came into force on 1 September 2000, criminalizes the following acts: terrorism, defined as the commission of acts (or threat to commit such acts) that would result in carnage, bodily harm or other injury to health, destruction (damage) of property or other serious consequences. The acts in question must be calculated to endanger public safety, sow panic among the population or compel public bodies to take decisions that serve terrorist interests or the interest of those threatening to commit such acts (art. 214.1); the same acts carried out by a defined group of persons organized in advance for the purpose of committing the act (art. 214.2); and the same acts when committed by a group and resulting in the death of the victim (art. 214.3). Other provisions in the law make punishable the wanton dissemination of misinformation regarding the death of persons, significant damage to property and other socially dangerous acts connected with a planned explosion as well as the attempt on the life of a public servant or government employee in order to curtail his political activity or as revenge for such activity. The Government of Azerbaijan noted that any person involved in the planning of a terrorist act who informed the authorities of the planned act in advance or helped to avert the offence by some other means was exempted from all criminal liability, provided that he had committed no other crime.

Cuba

6. The Government of Cuba condemned all terrorist acts in all their forms and manifestations as well as State involvement in supporting or tolerating such acts against other States. Without prejudice to international jurisprudence on the matter, the Government observed that Cuba regarded terrorism as a grave threat to the enjoyment of all human rights and stated that Cuba had been the victim of violent and varied terrorist practices over the last four decades. It denounced those activities as organized by foreign-based terrorist groups.

7. The Government of Cuba recognized the importance of State action, at both the national and international level, in the fight to prevent and eliminate terrorism as an obstacle to the full enjoyment of human rights, but underlined the need for the international community to act with transparency and without applying double standards. Cuba observed that the conclusion and implementation of international treaties was an important element in the fight against terrorism, but the progressive development of international law in the fight against terrorism was not in itself a guarantee of success. Cuba provided information on actions and measures that it had taken to fight against terrorism and to cooperate for that purpose. Cuba's Penal Code characterized terrorism and related acts as criminal offences and provided for penalties commensurate with the gravity of the offences. Cuba expressed the view that international action to combat terrorism should include cooperation with other States in apprehending perpetrators and in ensuring that no terrorist acts against other States were prepared or tolerated on their territory.

Egypt

8. The Government of Egypt provided information on measures it had taken in different fields to limit and eliminate terrorism. At the political level, the Government pointed out that the 1977 Political Parties Regulatory Act No. 40, which guaranteed the right of citizens to express their opinion through legitimate channels, had helped to eliminate clandestine organizations that were seeking to become focal points for extremists. In the legislative field, in line with United Nations documents and resolutions, the Egyptian legislature had endeavoured to combat terrorist crimes while ensuring that statutory legal safeguards were applied when suspected terrorists were called to account. Article 86 of the Penal Code, as

modified by Act No. 97 of 1992, defined terrorism as any use of force, violence, threats or intimidation to which an offender resorted to put into effect an individual or collective criminal plan designed to disrupt public order or endanger public safety and security by harming or terrorizing persons, jeopardizing their lives, freedoms and security, damaging the environment, damaging or seizing control of communications, preventing or obstructing the functioning of public authorities, houses of worship or academic institutions or rendering the Constitution, the laws or regulations inoperative. The Penal Code prescribed heavier penalties for terrorist crimes. In the social field, Egypt stated that it had endeavoured to improve the living conditions of the residents in shanty towns in order to prevent them from supporting, or falling under control of, terrorist groups. It had also sought to reduce unemployment by encouraging small enterprises funded through soft loans from the Social Fund and major investment in the country. In the cultural field, the countrywide "Reading for All" project made low-price books and publications available to ordinary citizens with a view to improving their cultural and intellectual levels. In the security field, the Government continued its action to investigate and bring to justice terrorist organizations as well as its endeavours to promote discussions between leading intellectuals and religious ministers and terrorist groups. Finally, in the educational field, Egypt had developed an academic curriculum to teach young persons the principles of human rights and the manner in which citizens should treat persons of different gender, colour or beliefs in conformity with the principles of the Islamic sharia.

India

9. The Government of India recognized that terrorism was a major challenge that confronted the international community and posed one of the most serious threats to human rights, violated the most fundamental right of all, the right to life, and infringed upon all others. It also expressed its complete agreement with the provisions of the Declaration on Measures to Eliminate International Terrorism (resolution 50/53, annex). India pointed to the urgent need for a comprehensive study on the impact of terrorism on the enjoyment of human rights, in view of the continuing acts of terrorism despite international and national efforts, and the still confused and inconclusive debate on the issue. Terrorism had serious adverse consequences for the enjoyment of all human rights and was totally at odds with democratic and liberal society. There was an urgent need to ensure the accountability of non-State actors who perpetrated terrorist acts. Observing the growing number of non-State actors who were responsible for massive abuses of human rights, the Government of India expressed its disagreement with those who maintained that it was only States that violated human rights. In its view the current imbalance, which failed to address the abuses perpetrated by terrorist individuals or groups and placed undue emphasis on the human rights of terrorists while ignoring the gross violation of human rights of others by them, needed to be redressed.

10. The Government of India also observed that a sustained campaign of terrorist violence was not possible without assistance from States, who used it as an instrument of foreign policy. The existing international conventions on terrorism tended to concentrate on individual responsibility and did not address the problem of State responsibility or cover inadequately the obligation of the States to prevent and refrain from aiding and abetting terrorist acts. The Government also noted a linkage between drugs and terrorism, and cited, in that connection, General Assembly resolution 52/133 of 12 December 1997 and the Annual Opium Poppy Survey published by the United Nations International Drug Control Programme. Finally, recognizing that India had been the victim of acts of terrorism, the Government of India reaffirmed its commitment to fight against it with full respect to democratic norms of the Indian Constitution and international human rights standards and expressed its willingness to promote the international community's efforts to develop a common approach to combat terrorism, including a comprehensive convention.

Kuwait

11. The Government of Kuwait stated that terrorism, regardless of its type, form and source, constituted a serious crime against and a grave violation of human rights. While recognizing that the phenomenon of terrorism had been present for centuries, the Government stressed the unprecedented characteristics that the phenomenon had taken on during the past four decades, spreading across borders, threatening the foundations of friendly relations among States and sowing seeds of evil and hatred between peoples. Kuwait emphasized that one of the main difficulties

that might impede achievement of the goals of international cooperation to curb and eliminate terrorism lay in the international community's failure to date to agree on a standard and universally acceptable definition of the concept of international terrorism. However, it expressed its belief that those difficulties should under no circumstances preclude diligent and sincere endeavours to increasingly curb and minimize the spread of the phenomenon. Kuwait had repeatedly emphasized its condemnation of the phenomenon and called for the closest possible international collaboration to eliminate it and its consequences and to safeguard everyone's right to enjoy his or her full human rights and freedoms.

12. The Government of Kuwait pointed out that the country had been the victim of terrorist incidents and attacks, which had assumed a wide variety of forms and methods, including hijacking of aircraft, bombings at public and private places, installations and facilities, attempted assassinations of important personalities and diplomats and other terrorist acts.

13. The Government of Kuwait also provided information on a series of legal, practical and other measures that it had taken, including accession to international conventions, promotion of forms of international cooperation through bilateral agreements, support for regional endeavours and, at the internal level, measures to develop its national legislation and regulations. Among the international conventions acceded to by Kuwait were conventions concerning the safety of aircraft, safety of persons and marking and detection of explosives. Kuwait had also supported, or endorsed, all resolutions adopted by the General Assembly on the subject of international terrorism. At the regional level, Kuwait had supported the endeavours of regional organizations by signing the Arab Agreement on the Prevention of Terrorism of 1998, the aim of which was to promote joint regional endeavours among Arab States to combat terrorist crimes that threatened security and stability in those States. It had also supported the resolutions adopted by the ministerial councils of the Organization of the Islamic Conference concerning measures to combat air piracy and had sponsored the resolution adopted at the Fifth Islamic Summit Conference, held in Kuwait in January 1987, on measures to combat all types and forms of international terrorism. At the bilateral level, the Government of Kuwait had concluded bilateral agreements with other States in the field of civil aviation incorporating provisions concerning the safety of aircraft. At the internal level, Kuwait had taken a series of legislative and regulatory measures, the most notable of which was the promulgation of Act No. 6 of 1994 concerning crimes against the safety of aircraft and aviation. Those measures were being accorded priority by the competent state agencies, which, in turn, took practical and executive measures, including action to combat terrorism, as well as endeavours in the field of training, information and public awareness. In the area of combating terrorism, Kuwait had established specialized bodies to deal with the phenomenon in the areas of protection of aircraft, security of installations, protection of prominent personalities, counter-terrorism, explosives and passports. Kuwait also assigned training, information and public awareness an important role in minimizing the danger of terrorism. In that context, it had carried out specialized training of counter-terrorism personnel and had established coordination with the security agencies of other Arab and friendly States through the organization of joint meetings, symposia and lectures. To conclude, the Government of Kuwait reaffirmed its intention to continue its endeavours in all fields as well as its willingness to cooperate with the international community with a view to the final elimination and eradication of the phenomenon of terrorism.

Qatar

14. The Government of Qatar indicated that it had no studies or publications on the subject matter of the note verbale.

Turkey

15. The Government of Turkey expressed its full support for the idea that terrorism was not only a criminal phenomenon and the fight against it was not merely a problem of crime control. In that regard it welcomed the fact that that approach was reflected in the preliminary report of the Special Rapporteur of the Subcommission on the Promotion and Protection of Human Rights. Turkey believed that acts of terror violated human rights and fundamental freedoms; thus there was a direct link between combating terrorism and the full enjoyment of human rights and fundamental freedoms. It stated that individuals and groups also had responsibility for the protection and promotion of human rights and could violate them. The conventional human rights approach, as shaped by the

events of the Second World War, was inadequate in responding to developments in the field. The concept of human rights was not static but had evolved as a result of the rapid social change in the post-war period, with increased responsibility being assigned to non-state actors and, on the other hand, a reduction of the State's functions in society. Turkey submitted that it must be accepted that individuals and groups also violated human rights, the role of terrorist groups in violation of human rights could be cited as an example.

United Arab Emirates

16. The Government of the United Arab Emirates provided information about provisions in its Constitution that guaranteed rights and opportunities for individuals and families. Those provisions also guaranteed public freedoms, rights and duties to secure for every human being the right to life without exposure to harm or danger. The Government stated that national legislation had followed the approach of the Constitution, which was in keeping with their common source in the Islamic sharia law. It observed that Islamic sharia law aimed at the prevention of terrorism and all of its manifestations and that the Holy Koran had determined that it should be punished as a crime that threatened the security, stability and prosperity of society. The Government also stated that terrorism was a form of direct assault on society and a means of creating instability and insecurity. Terrorism was more an assault on the fundamental nature and structural components of society than an assault on individuals. Finally, the Government described the implications of terrorism as twofold: it affected individuals by depriving them of their natural rights as prescribed by religion and law and also affected society by creating instability and disrupting safety and security.

17. The full texts of the replies received are available for consultation in the files of the Secretariat.